

THE HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,
Plaintiff,

vs.

MOTOROLA, INC., et al.,
Defendants.

MOTOROLA MOBILITY, INC., et al.,
Plaintiffs,

vs.

MICROSOFT CORPORATION,
Defendants.

Case No. C10-1823-JLR

**MICROSOFT'S RESPONSE TO
MOTOROLA'S MOTION TO FILE
DOCUMENTS UNDER SEAL IN
SUPPORT OF THEIR MOTION FOR
PARTIAL SUMMARY JUDGMENT
(ECF NO. 361)**

NOTED: July 27, 2012

Microsoft does not oppose Motorola's July 18, 2012 Motion to File Documents Under Seal Re Motorola's Motion for Partial Summary Judgment Dismissing Microsoft's Claim for a RAND Patent License Agreement to be Determined *Ab Initio* by the Court (Motorola's "Motion") (ECF No. 361). Motorola's Motion seeks to file under seal:

1. Motorola's Motion for Partial Summary Judgment Dismissing Microsoft's Claim for a RAND Patent License Agreement to be Determined *Ab Initio* by the Court (ECF No. 364), and

2. Exhibits 2-4, 6, 8-11, and 17 to the Declaration of Kevin Post in Support of Motorola's Motion for Partial Summary Judgment (ECF No. 363).

Microsoft does not oppose the sealing of any of these documents. In connection with previous motions filed by the parties, the Court previously has ordered Exhibits 2, 4, 6, and 8-11 to be sealed (*see* Motion at 4-7). Exhibit 17 is patent license agreement between Motorola and BenQ Corporation, which Motorola argues contains its confidential business information.

Exhibit 3 contains a confidential patent license agreement between Microsoft and Commonwealth Scientific and Industrial Research Organisation (CSIRO). Microsoft joins Motorola's request to maintain Exhibit 3 under seal on the basis that it contains confidential business and licensing information of Microsoft and third party CSIRO. Public disclosure of this information has the potential to lead to competitive harm to Microsoft and/or CSIRO. *Selling Source, LLC v. Red River Ventures, LLC*, 2011 U.S. Dist. LEXIS 49664, 18 (D. Nev. Apr. 29, 2011); *see also Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598, 98 S. Ct. 1306 (1978). Microsoft's interest in maintaining the confidentiality of its licensing agreement with CSIRO sharply outweighs any interest that the public, or Microsoft's competitors, may have in the contents of the agreement.

For these reasons, Microsoft does not oppose Motorola's Motion to Seal, and specifically requests that Exhibit 3 to the Post Declaration be sealed.

1 DATED this 25th day of July, 2012.

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CERTIFICATE OF SERVICE

I, Linda Bledsoe, swear under penalty of perjury under the laws of the State of Washington to the following:

1. I am over the age of 21 and not a party to this action.
2. On the 25th day of July, 2012, I caused the preceding document to be served on counsel of record in the following manner:

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8 DATED this 25th day of July, 2012.

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s/ Linda Bledsoe
LINDA BLEDSOE